

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2001-293-E - ORDER NO. 2001-918
SEPTEMBER 24, 2001

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|---|---|--------------------|
| IN RE: Blue Ridge Electric Cooperative, Inc., |) | ORDER ON PETITIONS |
| |) | FOR |
| Complainant, |) | RECONSIDERATION |
| |) | |
| vs. |) | |
| |) | |
| Seneca Light and Water and/or |) | |
| The City of Seneca, |) | |
| |) | |
| Respondents. |) | |

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petitions for Reconsideration of our Order No. 2001-698 in this Docket filed by both Blue Ridge Electric Cooperative, Inc. (Blue Ridge or the Coop.) and the City of Seneca (Seneca or the City). Because of the reasoning stated below, we grant, in part, Blue Ridge's Petition, and deny the Petition of the City.

Blue Ridge asserts that this Commission erred in Order No. 2001-698 by holding all other requested relief in abeyance, other than the cease and desist order against Seneca, which ordered Seneca to cease and desist construction of the facilities, lines, and equipment at a Wal-Mart site in Blue Ridge territory temporarily until further Order of the Commission. Blue Ridge also complains about this Commission restricting Blue Ridge from providing temporary electric service to the site in question, pending the resolution of the annexation challenge by the South Carolina Court system. According to

Blue Ridge, this impairs the ability of Blue Ridge to provide electric service to a business located in its assigned territory seeking to construct a new facility at this time. Blue Ridge states that it has had facilities on the site for at least fifty (50) years, and it should be allowed to continue to provide electric service to the site without disruption or interference until such time as the Court hears and resolves the annexation challenge that is at the center of this dispute. Finally, Blue Ridge asserts that this Commission erred in denying Blue Ridge's right to continue service as the principal supplier for this site by failing to maintain the status quo ante so that Blue Ridge and its members are deprived of their statutory rights under the Territorial Assignment Act.

Seneca also filed a Petition stating that the annexation of the Wal-Mart site is already complete by statute, and that the area in question now lies within the limits of the City of Seneca. Accordingly, Seneca states that this Commission has no jurisdiction to order the City to cease and desist extending "its municipally owned electric system within its municipal limits to comply with Wal-Mart's request for service." Further, Seneca asserts that, since Seneca is an "electrical utility" under S.C. Code Ann. Section 58-27-10 (1976) only to the extent of its operations outside the City's corporate limits, no certificate of public convenience and necessity is required by the City to serve the Wal-Mart site.

We disagree with the City's view of the law, and reiterate our view that, since the legality of the annexation has been timely challenged, the Courts must determine whether the area is within the city limits of Seneca. Until that time, we consider the area to be

under this Commission's jurisdiction, and subject to the Territorial Assignment Act.

Clearly, the area in question is in the territory of Blue Ridge Electric Cooperative, Inc.

Accordingly, we grant Blue Ridge's Petition in part, and deny the City's Petition.

We hold that Blue Ridge shall provide electric service to the Wal-Mart site and associated businesses until such time as the Courts issue a final order on the annexation challenge. We make this decision in the interest of insuring that the commercial development of this property not be delayed by the lack of an electric supplier during the construction phase of this project. This Commission is responsible for enforcing the Territorial Assignment Act and until the Courts render a decision, the area in question remains outside the boundaries of the City of Seneca and in the assigned territory of Blue Ridge under the Act. The City of Seneca will not be prejudiced by this decision, since Blue Ridge will be bound by any final Court decision regarding the annexation issue.

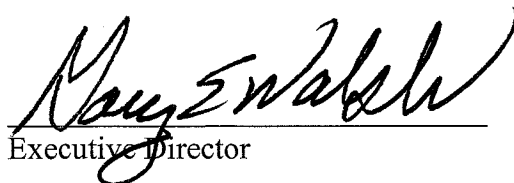
This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:



Executive Director

(SEAL)